



State of North Carolina Office of the State Controller

Michael F. Easley, Governor

David McCoy, State Controller

December 5, 2008

MEMORANDUM

TO: Chief Executive Officers
Chief Deputies
HR Directors
Payroll Officers

FROM: David McCoy

A handwritten signature in black ink that reads "David McCoy".

SUBJECT: November 21, 2008 MEMO "Payroll Overpayments and Recoupment Agreements" and Consistency with G.S. § 143-553.

When I wrote on November 21, on this subject, I noted that the Office of the State Controller (OSC) will assist state employees who find themselves in the circumstance of having to repay the State as a result of receiving a salary overpayment. Likewise, OSC is committed to assisting your agencies in managing these instances and working out a repayment plan with affected employees using the accounts payable process to recoup any monies owed. As previously noted, if an employee has received an overpayment, the agency and the employee may enter into a repayment agreement where the employee will repay the agency in incremental payments over time. Furthermore, I suggested that a reasonable period of time could be construed to be within a fiscal quarter. I am writing to provide further guidance and clarification on appropriate repayment schedules.

Recently, G.S. § 143-553 was brought to my attention; it specifies the time frame under which a state employee may repay a debt to the State and be deemed to be making a good faith effort towards meeting his/her statutory obligation. In relevant part, this statute provides that ***"An employee of any employing entity who has elected in writing to allow not less than ten percent (10%) of his net disposable earning to be periodically withheld for application towards a debt to the State shall be deemed to be repaying the money within a reasonable period of time and shall not have his employment terminated . . ."*** A request from an employee for a repayment schedule must be granted and the time terms for repayment must be consistent with this statute. While an earlier payment schedule may be mutually agreed upon, if the employee requests that the 10% of net disposable earnings rule be applied, it must be.

This office will continue to work with you and your staff to resolve these overpayment issues in a manner that serves the State and our state employees. If there is a genuine dispute as to whether the money is owed and/or the amount owed, your state employee should contact this office for appropriate review and a final determination of the State's claim for repayment.